

Code of Alabama
Title 34. Professions and Businesses.
Chapter 4. Auctioneers.

Ala.Code 1975 T. 34, Ch. 4, Refs & Annos

[Currentness](#)

Ala. Code 1975 T. 34, Ch. 4, Refs & Annos, AL ST T. 34, Ch. 4, Refs & Annos

Current through Act 2022-442 of the 2022 Regular and First Special Sessions. Some provisions may be more current; see credits for details.

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Code of Alabama
Title 34. Professions and Businesses.
Chapter 4. Auctioneers.
Article 1. General Provisions.

Ala.Code 1975 T. 34, Ch. 4, Art. 1, Refs & Annos
[Currentness](#)

Ala. Code 1975 T. 34, Ch. 4, Art. 1, Refs & Annos, AL ST T. 34, Ch. 4, Art. 1, Refs & Annos
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Code of Alabama
Title 34. Professions and Businesses. (Refs & Annos)
Chapter 4. Auctioneers. (Refs & Annos)
Article 1. General Provisions. (Refs & Annos)

Ala.Code 1975 § 34-4-1

§ 34-4-1. Short title.

[Currentness](#)

This chapter shall be known and may be cited as the Auctioneers License Act.

Credits

(Acts 1973, No. 811, p. 1236, § 1.)

Ala. Code 1975 § 34-4-1, AL ST § 34-4-1

Current through Act 2022-442 of the 2022 Regular and First Special Sessions. Some provisions may be more current; see credits for details.

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Code of Alabama

Title 34. Professions and Businesses. (Refs & Annos)

Chapter 4. Auctioneers. (Refs & Annos)

Article 1. General Provisions. (Refs & Annos)

Ala.Code 1975 § 34-4-2

§ 34-4-2. Definitions.

Currentness

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed by this section:

(1) AUCTIONEER. Any person who has graduated from an accredited auction school and has one year's experience as an apprentice auctioneer or has two years' experience as an apprentice auctioneer in bid calling, for a fee, commission or any other valuable consideration, or with the intention or expectation of receiving the same, by the means of or process of an auction or sale at auction, offers, negotiates, or attempts to negotiate a listing contract, sale, purchase, or exchange of goods, chattels, merchandise, real or personal property or of any other commodity which may lawfully be kept or offered for sale by or at public auction.

(2) BOARD. The State Board of Auctioneers.

(3) APPRENTICE AUCTIONEER. Any person who for compensation or valuable consideration or otherwise is employed, directly or indirectly, by an auctioneer to deal or engage in any activity listed in subdivision (1) of this section.

(4) GOODS. Any chattels, goods, merchandise, real or personal property or commodities of any form or type which may lawfully be kept or offered for sale.

(5) PERSONS. Individuals, associations, partnerships, and corporations, and the word "persons" shall also include the officers, directors, and employees of a corporation.

(6) AUCTION BUSINESS or BUSINESS OF AUCTIONEERING. The performing of any of the acts of an auctioneer or apprentice auctioneer as defined in this section.

Credits

(Acts 1973, No. 811, p. 1236, § 2.)

Ala. Code 1975 § 34-4-2, AL ST § 34-4-2

Current through Act 2022-442 of the 2022 Regular and First Special Sessions. Some provisions may be more current; see credits for details.

Code of Alabama

Title 34. Professions and Businesses. (Refs & Annos)

Chapter 4. Auctioneers. (Refs & Annos)

Article 1. General Provisions. (Refs & Annos)

Ala.Code 1975 § 34-4-3

§ 34-4-3. Exemptions from chapter.

Currentness

The provisions of this chapter and the terms “auctioneer,” “apprentice auctioneer,” “auction business or business of auctioneering,” as defined in [Section 34-4-2](#), shall not apply to and shall not include any person acting as a receiver, trustee in bankruptcy, guardian, administrator, or executor or any such person acting under order of any court, nor shall they include a trustee acting under a trust agreement, deed of trust or will, nor shall they include sales at auction conducted by or under the direction of any public authority or pursuant to any judicial order or decree.

Credits

(Acts 1973, No. 811, p. 1236, § 4.)

Ala. Code 1975 § 34-4-3, AL ST § 34-4-3

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Code of Alabama

Title 34. Professions and Businesses. (Refs & Annos)

Chapter 4. Auctioneers. (Refs & Annos)

Article 1. General Provisions. (Refs & Annos)

Ala.Code 1975 § 34-4-4

§ 34-4-4. Enforcement of chapter.

Currentness

The Board of Auctioneers is hereby authorized and empowered to adopt, fix, and establish all rules and regulations necessary for the proper administration and enforcement of this chapter.

Credits

(Acts 1973, No. 811, p. 1236, § 7.)

Ala. Code 1975 § 34-4-4, AL ST § 34-4-4

Current through Act 2022-442 of the 2022 Regular and First Special Sessions. Some provisions may be more current; see credits for details.

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Code of Alabama

Title 34. Professions and Businesses. (Refs & Annos)

Chapter 4. Auctioneers. (Refs & Annos)

Article 1. General Provisions. (Refs & Annos)

Ala.Code 1975 § 34-4-5

§ 34-4-5. Actions for collection of compensation.

Currentness

No person engaged in the business of or acting in the capacity of an auctioneer or an apprentice auctioneer shall bring or maintain any action in the courts of this state for the collection of compensation for any services performed as an auctioneer or apprentice auctioneer without first alleging and proving that he or she was a duly licensed auctioneer or apprentice auctioneer at the time the alleged cause of action arose. No apprentice auctioneer shall have the right to institute an action in his or her own name for the recovery of a commission, fee, or compensation for services as an apprentice auctioneer, but any such action shall be instituted and brought by the licensed auctioneer employing the apprentice auctioneer. Nothing contained herein shall be construed so as to prevent a licensed apprentice auctioneer from suing his or her employing auctioneer for any compensation, fees, or commissions due him or her from such auctioneer.

Credits

(Acts 1973, No. 811, p. 1236, § 20.)

Ala. Code 1975 § 34-4-5, AL ST § 34-4-5

Current through Act 2022-442 of the 2022 Regular and First Special Sessions. Some provisions may be more current; see credits for details.

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Chapter 4. Auctioneers. (Refs & Annos)

Article 1. General Provisions. (Refs & Annos)

Ala.Code 1975 § 34-4-6

§ 34-4-6. Limitation on authority of political subdivisions.

Currentness

No political subdivision of this state shall have the power or authority after September 5, 1973, to levy or collect any license tax from or to require the licensing in any manner of any auctioneer who has been licensed and bonded under this chapter in lieu of the license tax or license fee heretofore imposed by any political subdivision.

Credits

(Acts 1973, No. 811, p. 1236, § 24; [Act 98-271](#), p. 440, § 1.)

Ala. Code 1975 § 34-4-6, AL ST § 34-4-6

Current through Act 2022-442 of the 2022 Regular and First Special Sessions. Some provisions may be more current; see credits for details.

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Title 34. Professions and Businesses. (Refs & Annos)
Chapter 4. Auctioneers. (Refs & Annos)
Article 1. General Provisions. (Refs & Annos)

Ala.Code 1975 § 34-4-7

§ 34-4-7. Penalties.

Currentness

(a) Any person violating this chapter, shall, upon conviction, be guilty of a Class A misdemeanor, subject to a fine or imprisonment, or both.

(b) Any person, having previously been convicted for violating this chapter, who subsequently violates this chapter, shall, upon conviction for the subsequent violation, be guilty of a Class C felony, subject to a fine or imprisonment, or both.

Credits

(Acts 1973, No. 811, p. 1236, § 22; Act 98-271, p. 440, § 1.)

Notes of Decisions (1)

Ala. Code 1975 § 34-4-7, AL ST § 34-4-7

Current through Act 2022-442 of the 2022 Regular and First Special Sessions. Some provisions may be more current; see credits for details.

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Code of Alabama
Title 34. Professions and Businesses. (Refs & Annos)
Chapter 4. Auctioneers. (Refs & Annos)
Article 2. Licenses.

Ala.Code 1975 § 34-4-20

§ 34-4-20. Required.

[Currentness](#)

It shall be unlawful for any person, partnership, association, or corporation in any county of this state to act as an auctioneer or apprentice auctioneer, or directly or indirectly to engage or assume to engage in the auction business and act as either without first obtaining a license issued by the State Board of Auctioneers, under the provisions of this chapter.

It shall be unlawful for any person not licensed under the provisions of this chapter to advertise that he or she is in the auction business or to do anything to leave any impression upon the public that he or she is an auctioneer or is so engaged.

Credits

(Acts 1973, No. 811, p. 1236, §§ 3, 19.)

[Notes of Decisions \(1\)](#)

Ala. Code 1975 § 34-4-20, AL ST § 34-4-20

Current through Act 2022-442 of the 2022 Regular and First Special Sessions. Some provisions may be more current; see credits for details.

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Code of Alabama

Title 34. Professions and Businesses. (Refs & Annos)

Chapter 4. Auctioneers. (Refs & Annos)

Article 2. Licenses.

Ala.Code 1975 § 34-4-21

§ 34-4-21. Application and examination; fees; expiration, renewal of licenses; single auction license; continuing education; discharge of apprentice; change of address; inactive status.

Effective: August 1, 2021

[Currentness](#)

(a) Any person desiring to enter into the auction business and obtain a license as an auctioneer or apprentice auctioneer shall make written application for a license to the board. Each application shall be accompanied by an examination fee of an amount not to exceed one hundred fifty dollars (\$150), as set by rule of the board, which shall be collected from each applicant to defray the expenses of the examination. The application shall be submitted on forms prepared and furnished by the board.

(b)(1) Each applicant for a license as an auctioneer shall be 19 years of age or over, and each applicant for a license as an apprentice auctioneer shall be 18 years of age or over. Each applicant for an auctioneer's license shall have served one year as an apprentice auctioneer under the supervision of a licensed auctioneer in this state and have successfully completed a course of study consisting of not less than 85 hours of classroom instruction in the fundamentals of auctioneering that satisfies the requirements of the board.

(2) An application shall also be accompanied by a recommendation of an employing auctioneer. If an applicant has not successfully completed an approved course of study that satisfies the requirements of the board, in lieu thereof, he or she shall be required to serve two years as an apprentice under the supervision of a licensed auctioneer in this state.

(c)(1) Any person who files a complete application with the board in the proper manner shall be entitled to take an examination to determine his or her qualifications. The board may require applicants to take and pass an examination establishing, in a manner satisfactory to the board, that the applicant has a general knowledge of ethics, reading, writing, spelling, elementary arithmetic, and the laws of this state relating to auctions and this chapter. The examination for an auctioneer's license shall be of a more exacting nature and scope than the examination for an apprentice auctioneer.

(2) The board, through application and examination, shall determine whether the applicant is of good repute, trustworthy, honest, and competent to transact the business of an auctioneer, or of an apprentice auctioneer, in a manner that safeguards the interest of the public.

(3) The board shall require, and it shall be the responsibility of any applicant for an initial, renewal, or reciprocal license to disclose any prior conviction, any pending criminal arrest of any nature except misdemeanor traffic violations, and any prior or pending disciplinary proceedings against the applicant before a board of auctioneers or real estate commission in this or any other state. If an applicant has been convicted of a crime in a court of competent jurisdiction of this or any other district, state, or territory of the United States or of a foreign country, the untrustworthiness of the applicant and the conviction, in itself, may be sufficient grounds for refusal of a license.

(4) All auctioneers, apprentice auctioneers, and auction companies are under a continuing duty to report to the board any and all criminal arrests, charges, convictions, or disciplinary proceedings which they may incur, as well as any civil suits involving them. The board shall receive notice of any arrest, charge, criminal conviction, or commencement of disciplinary proceedings within 30 days of its occurrence. Notice of the commencement of any civil suit shall be received by the board within 30 days after service of the complaint upon the defendant in the action.

(d) The board may grant a single auction license once per calendar year to any nonresident individual who is duly licensed in good standing as an auctioneer in another state, or to an auction company in another state, who makes written application to the board and provides satisfactory proof of all of the following:

(1) The applicant satisfies the age, reputation, and other qualifications to be licensed as an auctioneer.

(2) The applicant has paid a fee as established by rule of the board.

(3) The applicant has not applied for or previously obtained a license under this chapter.

(4) The applicant is not the subject of a disciplinary action in any state; has not had a professional license or business license for any company in which he or she is a principal in this, or any other licensing jurisdiction, disciplined, suspended, revoked, or denied; has not been convicted of a criminal offense; and has no criminal charges pending in any jurisdiction.

(5) The applicant has provided proof of financial responsibility in the form of either an irrevocable letter of credit or a cash bond or surety bond in the amount of ten thousand dollars (\$10,000). If the applicant gives a surety bond, the bond shall be executed by a surety company authorized to do business in this state. The bond shall be made payable to the board and shall be conditioned on compliance by the applicant with this chapter and the rules adopted by the board. All bonds shall be in a form approved by the board.

(e) The license fee for each auctioneer or auction company shall be an amount to be determined by the board, not to exceed two hundred fifty dollars (\$250), and the license fee for each apprentice auctioneer shall be an amount to be determined by the board, not to exceed one hundred fifty dollars (\$150). The license fees shall not be increased more than twenty-five dollars (\$25) in any given year.

(f) All licenses shall expire on September 30 of each year following issuance thereof and may be renewed upon payment of the appropriate license fee as required by this chapter. Renewal of a license may be effected at any time during the months preceding the date of expiration. No examination shall be required for the renewal of any license, unless the license has been revoked or suspended. If a licensee fails to renew his or her license by the deadline of each year, he or she may renew his or her license within 60 days after the expiration date, upon payment of the required fee and a late fee of twenty-five dollars (\$25) for apprentices and fifty dollars (\$50) for auctioneers and auction companies. If a licensee elects not to pay the penalty and renew his or her license, he or she shall be required to submit an application, pay the examination fee, and take the examination required for new licensees.

(g) The board, by rule, shall adopt a program of continuing education for its licensees. No licensee shall have his or her license renewed unless, in addition to any other requirements of this chapter, the minimum annual continuing education requirements are met. The continuing education program shall not include testing or examination of the licensees in any manner. Any licensee 65 years of age or older shall be exempt from the continuing education requirement.

(h) The board shall prepare and deliver to each licensee a license certificate and pocket card. The certificate shall be displayed openly at all times in the office of the licensee. The certificate and the pocket card of the apprentice auctioneer shall contain his or her name as well as that of the auctioneer under whose supervision he or she is employed.

(i) When any auctioneer discharges an apprentice, or terminates his or her employment with the auctioneer for any reason, the auctioneer shall deliver or mail by registered or certified mail to the board the license of the discharged apprentice auctioneer. It shall be unlawful for any apprentice auctioneer to perform any of the acts contemplated by this chapter, either directly or indirectly under authority of his or her license, until the apprentice auctioneer receives a new license bearing the name and address of his or her new employer. No more than one license shall be issued to any apprentice auctioneer for the same period of time.

(j) Written notice shall be given immediately to the board by each licensee of any change in his or her mailing address and the board shall issue a new license for the unexpired period. A change of mailing address without notification to the board shall automatically cancel the license previously issued. For changing a mailing address and issuance of a new license, the board shall collect a fee in an amount determined by rule of the board. Each prior license shall be returned or accounted for to the board and be canceled before the issuance of the new license. The board may require other proof considered desirable with due regard to the paramount interest of the public in the issuance of the license.

(k)(1) An auctioneer who is in good standing with the board may request inactive status by submitting to the board a written application, his or her current license certificate and pocket card, and a fee. The auctioneer shall certify on the application that he or she will not perform any business of auctioneering while on inactive status. An auctioneer who has a disciplinary or suspension hearing pending against him or her may only be granted inactive status upon approval of the board. Inactive status may be renewed annually upon written application and payment of a fee. The board, by rule, shall determine the amount of the initial application fee and the annual renewal fee.

(2) An auctioneer on inactive status may be restored to active status by submitting to the board a written application requesting reactivation and providing proof of satisfying all continuing education requirements for the most recent licensure period during which the license was inactive.

(l) Pursuant to [Sections 41-22-1 to 41-22-27](#), inclusive, the Alabama Administrative Procedure Act, the board may make and enforce any necessary and reasonable rules pursuant to the application for any license.

(m) The board, by rule, may establish and charge reasonable fees relating to the administration and enforcement of this chapter for application or other processing costs; online service; continuing education provider services; copy, mailing, and filing services; and other fees as necessary to offset licensing and processing costs.

Credits

(Acts 1973, No. 811, p. 1236, § 11; Acts 1981, No. 81-378, p. 555, § 4; Acts 1988, No. 88-138, p. 201, § 3; Acts 1992, No. 92-119, p. 197, § 3; Act 98-271, p. 440, § 1; Act 2004-74, p. 94, § 3; Act 2008-81, p. 103, § 3; Act 2012-97, p. 168, § 3; Act 2014-329, p. 1216, § 1; Act 2021-438, § 1.)

Ala. Code 1975 § 34-4-21, AL ST § 34-4-21

Current through Act 2022-442 of the 2022 Regular and First Special Sessions. Some provisions may be more current; see credits for details.

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KeyCite Red Flag - Severe Negative Treatment

KeyCite Red Flag Negative Treatment § 34-4-22. Register of applicants. Repealed by Act 2021-438, § 2, effective August 1, 2021.

Code of Alabama

Title 34. Professions and Businesses. (Refs & Annos)

Chapter 4. Auctioneers. (Refs & Annos)

Article 2. Licenses.

Ala.Code 1975 § 34-4-22

§ 34-4-22. Register of applicants. Repealed by Act 2021-438, § 2, effective August 1, 2021.

Effective: August 1, 2021

[Currentness](#)

Ala. Code 1975 § 34-4-22, AL ST § 34-4-22

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Code of Alabama
Title 34. Professions and Businesses. (Refs & Annos)
Chapter 4. Auctioneers. (Refs & Annos)
Article 2. Licenses.

Ala.Code 1975 § 34-4-23

§ 34-4-23. License as evidence of rights and privileges.

Effective: August 1, 2021

[Currentness](#)

The issuance of a license by the board shall be evidence that the person or business entity named therein is entitled to all the rights and privileges of an auctioneer or apprentice auctioneer while the license remains unrevoked or unexpired.

Credits

(Acts 1973, No. 811, p. 1236, § 16; [Act 2021-438](#), § 1.)

Ala. Code 1975 § 34-4-23, AL ST § 34-4-23

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Code of Alabama
Title 34. Professions and Businesses. (Refs & Annos)
Chapter 4. Auctioneers. (Refs & Annos)
Article 2. Licenses.

Ala.Code 1975 § 34-4-24

§ 34-4-24. Bond required.

Currentness

Each application for an auctioneer's or apprentice auctioneer's license shall be accompanied by a bond in the amount of \$10,000. The bond shall be a cash bond or a surety bond and, if the latter, shall be executed by a surety company authorized to do business in this state. The bond shall be made payable to the board and conditioned upon the applicant conducting his or her business in accordance with the provisions and intent of this chapter. The bond shall be in a form approved by the board. No license may be issued until such a bond has been filed with the board.

Credits

(Acts 1973, No. 811, p. 1236, § 17; Acts 1981, No. 81-378, p. 555, § 4.)

Ala. Code 1975 § 34-4-24, AL ST § 34-4-24

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Code of Alabama
Title 34. Professions and Businesses. (Refs & Annos)
Chapter 4. Auctioneers. (Refs & Annos)
Article 2. Licenses.

Ala.Code 1975 § 34-4-25

§ 34-4-25. Licensing requirements; irrevocable consent.

Effective: August 1, 2021

[Currentness](#)

(a) An individual may become an auctioneer or apprentice auctioneer in this state by conforming to this chapter. If an auctioneer or apprentice auctioneer has a lawsuit or other legal action filed and pending against him or her in this or any other state, the board may not issue a license to him or her until final disposition of the action, and then only at the discretion of the board. The terms “auctioneer” and “apprentice auctioneer” shall include any individual, firm, company, partnership, association, or corporation by whom the “auctioneer” or “apprentice auctioneer” is employed.

(b) Every applicant shall file an irrevocable consent that actions may be commenced against the applicant in the proper court in the county in this state in which a cause of action may arise, in which the plaintiff may reside, by service of any process or pleadings authorized by laws of this state on the board, or a deputy to be designated by the board, the consent stipulating and agreeing that service of process or pleading shall be begun and held in all courts to be as valid and binding as if due service had been made upon the applicant in this state. The consent shall be duly acknowledged and, if made by a corporation, shall be authenticated by the seal of the corporation. In case of any process or pleadings mentioned in this chapter being served upon the board or upon a deputy to be designated by the board, duplicated copies shall be made, one of which shall be filed in the office of the secretary of the board, and the other immediately forwarded by registered or certified mail to the main office of the applicant against which process or pleadings are directed. No default in the proceedings or action shall be taken unless it shall be made to appear by affidavit of a member of the board, or a deputy designated by the board, that a copy of the process or pleadings was mailed to the defendant as herein required. Judgment by default shall be taken in any action or proceedings within 20 days after the date of the mailing of process or pleadings to the defendant.

Credits

(Acts 1973, No. 811, p. 1236, § 18; Acts 1981, No. 81-378, p. 555, § 4; [Act 2004-74, p. 94, § 3](#); [Act 2014-329, p. 1216, § 1](#); [Act 2021-438, § 1](#).)

Ala. Code 1975 § 34-4-25, AL ST § 34-4-25

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Code of Alabama
Title 34. Professions and Businesses. (Refs & Annos)
Chapter 4. Auctioneers. (Refs & Annos)
Article 2. Licenses.

Ala.Code 1975 § 34-4-26

§ 34-4-26. Mailing address.

Currentness

Each licensee must have a definite mailing address such as street name and number or RFD number. A post office box only will not be sufficient.

Credits

(Acts 1973, No. 811, p. 1236, § 19.)

Ala. Code 1975 § 34-4-26, AL ST § 34-4-26

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Title 34. Professions and Businesses. (Refs & Annos)
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Article 2. Licenses.

Ala.Code 1975 § 34-4-27

§ 34-4-27. Privilege licenses.

Effective: August 1, 2021

[Currentness](#)

Each auctioneer shall annually pay one state license in an amount not to exceed two hundred fifty dollars (\$250). Each auctioneer shall also annually pay a county license fee of twenty-five dollars (\$25) in each county where he or she sells by auction. No privilege license shall be required for any apprentice auctioneer when he or she is listed as the principal auctioneer. No license shall be required for any auctioneer who conducts an auction, without compensation for himself or herself, where all proceeds from the auction go to the benefit of any charitable organization. The term “auctioneer” shall include any person selling real estate, goods, wares, merchandise, automobiles, livestock, or other things of value by or at public auction. Sales at public auction involving any of the following may be conducted for compensation without a license:

- (1) Sales at auction conducted by the owner of any part of the goods or real estate being offered, or an attorney representing the owner, unless the owner acquired the goods to resell.
- (2) Sales for the estate of a decedent by an administrator, executor, or any person acting under order of any court or the attorney of an administrator, executor, or any person acting under order of any court.
- (3) Sales of property conveyed by deed of trust, mortgage, judgment, or ordered to be sold according to the mortgage, judgment, order, or decree.
- (4) All sales under legal process.

Credits

(Acts 1973, No. 811, p. 1236, § 23; Act 98-271, p. 440, § 1; Act 2021-438, § 1.)

Notes of Decisions (1)

Ala. Code 1975 § 34-4-27, AL ST § 34-4-27

Current through Act 2022-442 of the 2022 Regular and First Special Sessions. Some provisions may be more current; see credits for details.

Code of Alabama
Title 34. Professions and Businesses. (Refs & Annos)
Chapter 4. Auctioneers. (Refs & Annos)
Article 2. Licenses.

Ala.Code 1975 § 34-4-28

§ 34-4-28. Authority under license not transferable; duties of licensees.

Effective: August 1, 2021

[Currentness](#)

(a) Authority to transact business as an auctioneer under any license issued by the board shall be restricted to the person named in the license and may not inure to the benefit of any other person.

(b) Where an auctioneer's license shall be issued to an auction company that is duly qualified and registered to conduct business in this state, authority to transact business thereunder shall be limited to one officer, member, copartner, or owner of the company, to be designated in the application and named in the license. Each other officer, member, copartner, or owner of the company desiring to act as an auctioneer in connection with the business of the company, or otherwise, shall be required to make application for and take out a separate license in his or her own name individually.

(c) No licensed auction company may hire an unlicensed auctioneer to conduct any auction business, nor shall any licensed auctioneer conduct an auction for an unlicensed auction company in this state.

(d) Every licensee authorized to transact business pursuant to this chapter shall do all of the following:

(1) Maintain a segregated escrow or trust account in a bank insured by the Federal Deposit Insurance Corporation, in which funds belonging to sellers or consignors received in the course of business transacted shall be kept separate from the funds of the licensee. All funds received from sales by an apprentice shall be maintained in the escrow or trust account of the sponsor.

(2) Enter into a written contract with the owner or consignor of any property to be offered for sale before the auction. All contracts shall clearly contain the terms and conditions upon which the licensee received the property for auction including, but not limited to, whether the auction will be conducted as absolute or with reserve, and the date the proceeds due the owner or consignor shall be remitted to the seller or consignor.

(3) Provide a copy to the seller or consignor of all written instruments prepared by the licensee at the time of execution. Consignment agreements shall contain the name and signature of the licensee responsible for the auction.

(4) Provide a closing statement to the seller or consignor giving a full accounting of all proceeds received and disbursements made relative to the auction. A closing statement shall contain the date and location of the auction and the name, license number, and signature of the licensee responsible for the auction. A closing statement shall be provided within 30 days after

the auction. A properly prepared HUD-1 statement, or equivalent, satisfies the requirements of this section for the sale of real property.

(5) Display the name and license number of the auctioneer in all advertising for the auction. In the case of an apprentice auctioneer, all advertising shall also contain the name and license number of the sponsor. An auction company shall display the name and license number of the auctioneer named in the license in any and all advertisements.

(6) Ensure that all advertising is accurate and truthful.

(7) Maintain complete and accurate documents, books, and records of all transactions concerning every auction for a period of five years after the date on which the seller or consignor contracted with the auctioneer or the auction was conducted, whichever is later. The documents, books, and records shall be made available for inspection by the board, or its authorized personnel or representatives, upon request. Failure to produce the requested documents, books, records, or copies thereof within 30 days after request of the board shall be grounds for disciplinary action by the board.

(8) Assume responsibility, as the sponsoring auctioneer, for the acts of any apprentice in the conduct of auction business and be present at every auction to directly supervise the apprentice.

Credits

(Acts 1973, No. 811, p. 1236, § 25; [Act 2021-438](#), § 1.)

Ala. Code 1975 § 34-4-28, AL ST § 34-4-28

Current through Act 2022-442 of the 2022 Regular and First Special Sessions. Some provisions may be more current; see credits for details.

Code of Alabama

Title 34. Professions and Businesses. (Refs & Annos)

Chapter 4. Auctioneers. (Refs & Annos)

Article 2. Licenses.

Ala.Code 1975 § 34-4-29

§ 34-4-29. Disciplinary action -- Grounds; notice and hearing; administrative fines.

Effective: August 1, 2021

[Currentness](#)

(a) The board may, upon its own motion, and shall, upon the verified complaint in writing of any person containing evidence, documentary or otherwise, that makes out a prima facie case, investigate the actions of any auctioneer, apprentice auctioneer, or any person who assumes to act in either capacity, and hold a hearing on the complaint.

(b) The board may invoke disciplinary action whenever it shall be established to the satisfaction of the board, after a hearing as hereinafter provided, that any licensee is guilty of any of the following acts:

(1) Making any substantial misrepresentation.

(2) Pursuing a continued and flagrant course of misrepresentation or making false promises through agents, advertising, or otherwise.

(3) Accepting valuable consideration as an apprentice auctioneer for the performance of any of the acts specified in this chapter from any person other than his or her employer auctioneer.

(4) Failing to account for or remit, within 30 days, any money belonging to others that comes into his or her possession, commingling funds of others with his or her own, or failing to keep funds of others in an escrow or trustee account.

(5) Paying valuable consideration to any person for services performed in violation of this chapter.

(6) Being convicted in a court of competent jurisdiction of this or any other state of a criminal offense involving moral turpitude or a felony.

(7) Violating any rule adopted by the board.

(8) Failing to furnish voluntarily at the time of execution copies of all written instruments prepared by the licensee.

(9) Demonstrating bad faith, dishonesty, incompetency, or untruthfulness.

- (10) Demonstrating improper, fraudulent, or dishonest dealings.
 - (11) Having had any license to practice a business or profession in this or any other state or jurisdiction revoked, suspended, annulled, sanctioned, or otherwise having any disciplinary action taken against him or her by any other licensing authority in this or any other state.
 - (12) Failing before the sale at public auction, to enter into a written contract with the owner or cosignee of the property to be sold containing the terms and conditions upon which the licensee received the property for sale.
 - (13) Failing to display his or her name and state license number in all advertising for an auction the licensee is conducting.
 - (14) Presenting a worthless check to the board.
 - (15) Filing frivolous, unfounded complaints with the board.
 - (16) Knowingly making any misleading, false, or deceptive statement on any application for a license.
 - (17) Aiding or abetting an unlicensed person in the performance of acts that require a license under this chapter.
 - (18) Violating any other provision of this chapter.
- (c) When the board finds any licensee guilty of any of the grounds set forth in subsection (b), the board may enter an order imposing one or more of the following penalties:
- (1) A letter of reprimand.
 - (2) Probation for a period of time and subject to any condition prescribed by the board.
 - (3) Denial of an application for an initial or renewal license.
 - (4) Suspension of a license for a period of time established by the board, with or without automatic reinstatement.
 - (5) Revocation of a license.
 - (6) Imposing continuing education requirements in the area or areas in which the licensee has been found deficient.

(7) Assessment of the costs of any disciplinary proceedings on the licensee.

(d) Before denying an application for license or suspending or revoking any license, the board shall hold a hearing and, at least 21 days before the date set for the hearing, shall notify in writing the accused licensee of the charges made or the question to be determined, including notice of the time and place of the hearing, and afford the licensee an opportunity to be present, be heard in person or by counsel, and to offer evidence orally, or by affidavit or deposition. Written notice may be served by delivery of the notice personally to the applicant or licensee or by mailing the notice by registered or certified mail to the last known mailing address of the applicant or licensee. If the applicant or licensee is an apprentice auctioneer, the board shall also notify the auctioneer employing him or her, or whose employ he or she is about to enter, by mailing notice by registered or certified mail to the auctioneer's last known address. The hearing shall be held at a time and place prescribed by the board and shall proceed in accordance with the Alabama Administrative Procedure Act. The board may deny any applicant for an apprentice auctioneer or auctioneer license the right to take an examination for a period of up to one year if the applicant is found by the board to have conducted auction business within this state as an apprentice auctioneer or auctioneer without first having been properly licensed.

(e) In addition to the disciplinary powers granted in this section, the board may levy and collect administrative fines from any person for violations of this chapter or the rules of the board of not less than two hundred dollars (\$200) or more than one thousand five hundred dollars (\$1,500) for each violation.

(f) The board may seek an injunction against any person in violation of this chapter in addition to the penalties and disciplinary powers otherwise conferred upon the board herein. In an action for an injunction, the board may demand and recover a civil penalty of fifty dollars (\$50) per day for each violation, reasonable attorney fees, and court costs.

(g) Failure to comply with any final order of the board is cause for suspension or revocation of a license. The board may also suspend or revoke any license that has been issued based on false or fraudulent representations.

Credits

(Acts 1973, No. 811, p. 1236, § 13; Acts 1992, No. 92-119, p. 197, § 3; Act 2021-438, § 1.)

Ala. Code 1975 § 34-4-29, AL ST § 34-4-29

Current through Act 2022-442 of the 2022 Regular and First Special Sessions. Some provisions may be more current; see credits for details.

Code of Alabama
Title 34. Professions and Businesses. (Refs & Annos)
Chapter 4. Auctioneers. (Refs & Annos)
Article 2. Licenses.

Ala.Code 1975 § 34-4-30

§ 34-4-30. Disciplinary action -- Procedure for hearings; immunity of board.

Effective: August 1, 2021

[Currentness](#)

(a) The board may administer oaths and prescribe all necessary and reasonable rules for the conduct of a hearing. The board may take testimony of any person by deposition, with the same fees and mileage and in the same manner as prescribed by law in judicial procedure of courts of this state in civil cases. The fees and mileage shall be paid by the party at whose request the witness is subpoenaed.

(b) The affirmative vote of a majority of the members of the board shall be required before any disciplinary action may be taken against a licensee in accordance with this chapter.

(c) The board is declared to be a quasi judicial body, and the members or the employees of the board are granted immunity from civil liability and shall not be liable for damages therefrom when acting in the performance of their duties as described in this chapter.

Credits

(Acts 1973, No. 811, p. 1236, § 14; Acts 1981, No. 81-378, p. 555, § 4; [Act 98-271, p. 440, § 1](#); [Act 2021-438, § 1](#).)

Ala. Code 1975 § 34-4-30, AL ST § 34-4-30

Current through Act 2022-442 of the 2022 Regular and First Special Sessions. Some provisions may be more current; see credits for details.

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Code of Alabama
Title 34. Professions and Businesses. (Refs & Annos)
Chapter 4. Auctioneers. (Refs & Annos)
Article 2. Licenses.

Ala.Code 1975 § 34-4-31

§ 34-4-31. Revocation of license as part of judgment in damage action.

Effective: August 1, 2021

[Currentness](#)

Whenever any person claiming to have been injured or damaged by the gross negligence, incompetency, fraud, dishonesty, or misconduct on the part of any licensee engaging in the auction business, as herein described, shall file an action upon the claim against the licensee in any court of record in this state and shall recover judgment thereon, the court may as part of its judgment in the case, revoke the defendant's license, which shall not be reissued to such licensee except upon unanimous vote of all members of the board in favor of the reissuance and only then after the lapse of a period of 90 days from the date of the revocation.

Credits

(Acts 1973, No. 811, p. 1236, § 15; [Act 2021-438](#), § 1.)

Ala. Code 1975 § 34-4-31, AL ST § 34-4-31

Current through Act 2022-442 of the 2022 Regular and First Special Sessions. Some provisions may be more current; see credits for details.

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Chapter 4. Auctioneers. (Refs & Annos)
Article 2. Licenses.

Ala.Code 1975 § 34-4-32

§ 34-4-32. Effect on license of apprentice auctioneer.

Currentness

The revocation of an auctioneer's license shall automatically suspend every apprentice auctioneer's license granted to any person by virtue of his or her employment by the auctioneer whose license has been revoked. The apprentice auctioneer may retain his or her license by transferring to the employment of another licensed auctioneer within 21 days.

Credits

(Acts 1973, No. 811, p. 1236, § 21.)

Ala. Code 1975 § 34-4-32, AL ST § 34-4-32

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Chapter 4. Auctioneers. (Refs & Annos)
Article 2. Licenses.

Ala.Code 1975 § 34-4-33

§ 34-4-33. Appeals; costs.

Effective: August 1, 2021

[Currentness](#)

(a) Findings of the board with regard to the denial, suspension, or revocation of a license or the imposition of any penalty or administrative fine shall be final unless within 30 days after the date of the final order of the board, the applicant or licensee files a notice of appeal with the board to the Circuit Court of Montgomery County. The person appealing the decision shall post a two hundred dollar (\$200) cost bond with the board to cover the reasonable costs of preparing the transcript of the proceeding under review, unless waived by the board or the court on a showing of substantial hardship. The appeal shall be conducted in accordance with the Administrative Procedure Act, and with all the attendant rights and duties thereof.

(b) If the decision of the board is affirmed in whole or in part, the cost of the appeal shall be taxed against the party taking the appeal. If the decision of the board is not affirmed, the court shall tax the costs of appeal against the board.

Credits

(Act 98-271, p. 440, § 2; Act 2021-438, § 1.)

Ala. Code 1975 § 34-4-33, AL ST § 34-4-33

Current through Act 2022-442 of the 2022 Regular and First Special Sessions. Some provisions may be more current; see credits for details.

Code of Alabama
Title 34. Professions and Businesses. (Refs & Annos)
Chapter 4. Auctioneers. (Refs & Annos)
Article 3. Board of Auctioneers.

Ala.Code 1975 § 34-4-50

§ 34-4-50. Appointment; composition; powers and duties; expenses; seal; public records.

Effective: August 1, 2021

[Currentness](#)

(a) The Governor shall appoint a State Board of Auctioneers to be comprised of seven auctioneer members and one consumer member. All appointments shall be for a term of five years, with each auctioneer member appointed being a resident of a different congressional district and the consumer member being a resident of and appointed from the state at-large. Appointments shall end on the anniversary date of the original appointments, except appointments to fill a vacancy which shall be for the unexpired term only. No member shall serve more than two consecutive terms of office. Each member of the board and his or her successor shall have been a resident of this state for at least five years prior to his or her appointment. Each auctioneer member of the board and his or her successor shall have been a licensed auctioneer in this state for at least five years. In the event a district has no qualified candidate for appointment, the appointment may come from the state at-large. Each member shall hold office until his or her successor is appointed by the Governor. The Governor shall coordinate his or her appointments so that diversity of gender, race, and geographical area is reflective of the makeup of this state.

(b) Each auctioneer member of the board shall be of good moral character and shall have been licensed by the board and actively engaged in the auction business for at least five years prior to the appointment.

(c) On the appointment of a new auctioneer board member, the board, at its next meeting, shall elect one of its members as chair, one member as vice-chair, one member as secretary, and any other officers deemed necessary. The board may do all things necessary and convenient for carrying into effect this chapter. The board may adopt rules not inconsistent with this chapter or other general laws of the state.

(d) Except as otherwise provided in [Section 34-4-53](#), members of the board, board staff, and board attorneys shall receive the same per diem and travel allowance paid to state employees for each day they meet to conduct the official business of the board.

(e) The board may employ an administrator who shall be exempt from the classified service of the state, and other staff members necessary to discharge board duties and administer this chapter. The administrator shall be employed on the basis of his or her education, experience, and skills in administration and management. The board shall determine the duties and fix the compensation of the administrator and other staff members, subject to the general laws of the state.

(f) The board shall provide by rule for the investigation of any auction activity that is being promoted, managed, or supervised by unlicensed individuals in violation of this chapter and may employ an investigator to assist the board in enforcement of the laws, rules, and policies adopted thereunder. The investigator shall be employed on the basis of his or her education, experience, and skills in law enforcement. The board shall determine the duties and fix the compensation of the investigator, subject to the general laws of the state.

(g) The board shall adopt a seal by which the board shall authenticate records and documents. On the seal shall be the words State Board of Auctioneers. Copies of all records and documents in the office of the board that are duly certified and authenticated by the seal of the board shall be received in evidence in all courts equally and with the same effect as the original. All public records kept in the office of the board shall be open to public inspection during reasonable hours.

(h) Each board member shall be accountable to the Governor for the proper performance of his or her duties as a member of the board. The Governor shall investigate any complaints or unfavorable reports concerning the actions of the board and take appropriate action thereon, including removal of any board member for misfeasance, malfeasance, neglect of duty, commission of a felony, incompetence, or permanent inability to perform official duties. A board member may be removed at the request of the board for failing to attend four consecutive, properly noticed meetings.

Credits

(Acts 1973, No. 811, p. 1236, § 6; Acts 1981, No. 81-378, p. 555, § 4; Acts 1988, No. 88-138, p. 201, § 3; Acts 1992, No. 92-119, p. 197, § 3; Act 98-271, p. 440, § 1; Act 2004-74, p. 94, § 3; Act 2016-63, p. 86, § 3; Act 2021-438, § 1.)

Ala. Code 1975 § 34-4-50, AL ST § 34-4-50

Current through Act 2022-442 of the 2022 Regular and First Special Sessions. Some provisions may be more current; see credits for details.

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Code of Alabama

Title 34. Professions and Businesses. (Refs & Annos)

Chapter 4. Auctioneers. (Refs & Annos)

Article 3. Board of Auctioneers.

Ala.Code 1975 § 34-4-51

§ 34-4-51. Certificates of appointment to board; legal assistance; prosecution of complaints.

Currentness

Each member of the board shall receive a certificate of appointment from the Governor before entering upon the discharge of the duties of his or her office. The board, or any committee thereof, shall be entitled to the services of the state Attorney General, in connection with the affairs of the board, or may, on approval of the Attorney General, employ an attorney to assist or represent it in the enforcement of this chapter before any court of competent jurisdiction, and it may take the necessary legal steps through the proper legal officers of the state to enforce the provisions of this chapter and collect the penalties provided herein. Complaints shall be prosecuted in the name of the State Board of Auctioneers.

Credits

(Acts 1973, No. 811, p. 1236, § 5.)

Ala. Code 1975 § 34-4-51, AL ST § 34-4-51

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Code of Alabama
Title 34. Professions and Businesses. (Refs & Annos)
Chapter 4. Auctioneers. (Refs & Annos)
Article 3. Board of Auctioneers.

Ala.Code 1975 § 34-4-52

§ 34-4-52. Meetings; quorum.

Effective: August 1, 2021

[Currentness](#)

The board shall meet quarterly for the purpose of transacting business as may properly come before the board. Special meetings of the board shall be held at such times as the board may provide in the bylaws the board may adopt. A majority of the then appointed board members shall constitute a quorum at a board meeting. A majority vote of a quorum of the board eligible to vote on a matter shall be required for any action taken by the board. Due notice of each meeting and the time and place thereof shall be given each member in such manner as the bylaws and applicable law may provide.

Credits

(Acts 1973, No. 811, p. 1236, § 8; [Act 2004-74](#), p. 94, § 3; [Act 2021-438](#), § 1.)

Ala. Code 1975 § 34-4-52, AL ST § 34-4-52

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Code of Alabama

Title 34. Professions and Businesses. (Refs & Annos)

Chapter 4. Auctioneers. (Refs & Annos)

Article 3. Board of Auctioneers.

Ala.Code 1975 § 34-4-53

§ 34-4-53. Compensation of members.

Currentness

Members of the board shall each receive compensation in an amount of three hundred dollars (\$300) per day and travel allowance as is paid to state employees for each day spent on work made necessary by this chapter.

Credits

(Acts 1973, No. 811, p. 1236, § 9; Acts 1988, No. 88-138, p. 201, § 3; [Act 2004-74, p. 94, § 3.](#))

Ala. Code 1975 § 34-4-53, AL ST § 34-4-53

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Code of Alabama

Title 34. Professions and Businesses. (Refs & Annos)

Chapter 4. Auctioneers. (Refs & Annos)

Article 3. Board of Auctioneers.

Ala.Code 1975 § 34-4-54

§ 34-4-54. Record of proceedings; funds; audit.

Currentness

The executive director of the board shall keep a record of the proceedings of the board. The board shall deposit all the funds received and credited by the board into the State Treasury into an account hereby established to be known as the “Alabama State Board of Auctioneers Fund.” All money derived under this chapter shall be deposited into the fund and used only to carry out the requirements of this chapter. No money shall be paid out of the fund except by warrant of the Comptroller upon the State Treasury after approval of itemized vouchers by the executive director of the board or an authorized designee.

Credits

(Acts 1973, No. 811, p. 1236, § 10; Acts 1988, No. 88-138, p. 201, § 3; [Act 2014-329, p. 1216, § 1.](#))

Ala. Code 1975 § 34-4-54, AL ST § 34-4-54

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